



March 30, 2005

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## ENGROSSED SENATE BILL No. 100

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DIGEST OF SB 100 (Updated March 29, 2005 1:28 pm - DI 92)

**Citations Affected:** IC 6-3.5; noncode.

**Synopsis:** Local option income taxes. Provides that a civil taxing unit's distributive share of county option income taxes may be used for any lawful purpose. Expands the use of the county economic development income tax to any lawful purpose of a county, city, or town. Authorizes Miami County and Howard County to increase their respective county option income taxes by 0.25% over the maximum rates for county jail purposes.

**Effective:** Upon passage; July 1, 2005.

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**Long, Broden, Weatherwax, Mrvan,  
Lubbers**

(HOUSE SPONSORS — ESPICH, CRAWFORD, BORROR, GIAQUINTA)

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January 4, 2005, read first time and referred to Committee on Tax and Fiscal Policy.  
January 18, 2005, reported favorably — Do Pass.  
January 24, 2005, read second time, ordered engrossed. Engrossed.  
January 31, 2005, read third time, passed. Yeas 44, nays 5.

HOUSE ACTION

March 7, 2005, read first time and referred to Committee on Ways and Means.  
March 29, 2005, amended, reported favorably — Do Pass.

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ES 100—LS 6497/DI 113+



March 30, 2005

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

## ENGROSSED SENATE BILL No. 100

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A BILL FOR AN ACT to amend the Indiana Code concerning  
taxation.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 6-3.5-6-19 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 19. (a) Except as  
3 provided in sections 18(e) and 18.5(b)(3) of this chapter, in  
4 determining the fractional share of distributive shares the civil taxing  
5 units of a county are entitled to receive under section 18 of this chapter  
6 during a calendar year, the department of local government finance  
7 shall consider only property taxes imposed on tangible property subject  
8 to assessment in that county.

9       (b) In determining the amount of distributive shares a civil taxing  
10 unit is entitled to receive under section 18(g) of this chapter, the  
11 department of local government finance shall consider only the  
12 percentage of the civil taxing unit's budget that equals the ratio that the  
13 total assessed valuation that lies within the civil taxing unit and the  
14 county that has adopted the county option tax bears to the total assessed  
15 valuation that lies within the civil taxing unit.

16       (c) The distributive shares to be allocated and distributed under this  
17 chapter:

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(1) shall be treated by each civil taxing unit as additional revenue for the purpose of fixing its budget for the budget year during which the distributive shares is to be distributed to the civil taxing unit; **and**

**(2) may be used for any lawful purpose of the civil taxing unit.**

(d) In the case of a civil taxing unit that includes a consolidated city, its fiscal body may distribute any revenue it receives under this chapter to any governmental entity located in its county except an excluded city, a township, or a school corporation.

SECTION 2. IC 6-3.5-6-27 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 27. (a) This section applies only to Miami County. Miami County possesses unique economic development challenges due to:**

**(1) underemployment in relation to similarly situated counties; and**

**(2) the presence of a United States government military base or other military installation that is completely or partially inactive or closed.**

Maintaining low property tax rates is essential to economic development, and the use of county option income tax revenues as provided in this chapter to pay any bonds issued or leases entered into to finance the construction, acquisition, improvement, renovation, and equipping described under subsection (c), rather than use of property taxes, promotes that purpose.

(b) In addition to the rates permitted by sections 8 and 9 of this chapter, the county council may impose the county option income tax at a rate of twenty-five hundredths percent (0.25%) on the adjusted gross income of resident county taxpayers if the county council makes the finding and determination set forth in subsection (c). Section 8(e) of this chapter applies to the application of the additional rate to nonresident taxpayers.

(c) In order to impose the county option income tax as provided in this section, the county council must adopt an ordinance finding and determining that revenues from the county option income tax are needed to pay the costs of financing, constructing, acquiring, renovating, and equipping a county jail, including the repayment of bonds issued, or leases entered into, for financing, constructing, acquiring, renovating, and equipping a county jail.

(d) If the county council makes a determination under subsection (c), the county council may adopt a tax rate under subsection (b). The tax rate may not be imposed at a rate or for a

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time greater than is necessary to pay the costs of financing, constructing, acquiring, renovating, and equipping a county jail.

(e) The county treasurer shall establish a county jail revenue fund to be used only for the purposes described in this section. County option income tax revenues derived from the tax rate imposed under this section shall be deposited in the county jail revenue fund before making a certified distribution under section 11 of this chapter.

(f) County option income tax revenues derived from the tax rate imposed under this section:

(1) may only be used for the purposes described in this section;

(2) may not be considered by the department of local government finance in determining the county's maximum permissible property tax levy limit under IC 6-1.1-18.5; and

(3) may be pledged to the repayment of bonds issued, or leases entered into, for the purposes described in subsection (c).

SECTION 3. IC 6-3.5-6-28 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 28. (a) This section applies only to Howard County. Maintaining low property tax rates is essential to economic development, and the use of county option income tax revenues as provided in this chapter to pay any bonds issued or leases entered into to finance the construction, acquisition, improvement, renovation, and equipping described under subsection (c), rather than the use of property taxes, promotes that purpose.**

**(b) In addition to the rates permitted by sections 8 and 9 of this chapter, the county income tax council may impose the county option income tax at a rate of twenty-five hundredths percent (0.25%) on the adjusted gross income of resident county taxpayers if the county income tax council makes the finding and determination set forth in subsection (c). Section 8(e) of this chapter applies to the application of the additional rate to nonresident taxpayers.**

**(c) In order to impose the county option income tax as provided in this section, the county income tax council must adopt an ordinance finding and determining that revenues from the county option income tax are needed to pay the costs of financing, constructing, acquiring, renovating, and equipping a county jail, including the repayment of bonds issued, or leases entered into, for financing, constructing, acquiring, renovating, and equipping a**

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1 county jail.

2 (d) If the county income tax council makes a determination  
3 under subsection (c), the county income tax council may adopt a  
4 tax rate under subsection (b). The tax rate may not be imposed at  
5 a rate or for a time greater than is necessary to pay the costs of  
6 financing, constructing, acquiring, renovating, and equipping a  
7 county jail.

8 (e) The county treasurer shall establish a county jail revenue  
9 fund to be used only for the purposes described in this section.  
10 County option income tax revenues derived from the tax rate  
11 imposed under this section shall be deposited in the county jail  
12 revenue fund before making a certified distribution under section  
13 11 of this chapter.

14 (f) County option income tax revenues derived from the tax rate  
15 imposed under this section:

16 (1) may only be used for the purposes described in this  
17 section;

18 (2) may not be considered by the department of local  
19 government finance in determining the county's maximum  
20 permissible property tax levy limit under IC 6-1.1-18.5; and

21 (3) may be pledged to the repayment of bonds issued, or leases  
22 entered into, for the purposes described in subsection (c).

23 SECTION 4. IC 6-3.5-7-5 IS AMENDED TO READ AS  
24 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) Except as  
25 provided in subsection (c), the county economic development income  
26 tax may be imposed on the adjusted gross income of county taxpayers.  
27 The entity that may impose the tax is:

28 (1) the county income tax council (as defined in IC 6-3.5-6-1) if  
29 the county option income tax is in effect on January 1 of the year  
30 the county economic development income tax is imposed;

31 (2) the county council if the county adjusted gross income tax is  
32 in effect on January 1 of the year the county economic  
33 development tax is imposed; or

34 (3) the county income tax council or the county council,  
35 whichever acts first, for a county not covered by subdivision (1)  
36 or (2).

37 To impose the county economic development income tax, a county  
38 income tax council shall use the procedures set forth in IC 6-3.5-6  
39 concerning the imposition of the county option income tax.

40 (b) Except as provided in subsections (c), (g), (k), (p), and (r) the  
41 county economic development income tax may be imposed at a rate of:

42 (1) one-tenth percent (0.1%);

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- (2) two-tenths percent (0.2%);
- (3) twenty-five hundredths percent (0.25%);
- (4) three-tenths percent (0.3%);
- (5) thirty-five hundredths percent (0.35%);
- (6) four-tenths percent (0.4%);
- (7) forty-five hundredths percent (0.45%); or
- (8) five-tenths percent (0.5%);

on the adjusted gross income of county taxpayers.

(c) Except as provided in subsection (h), (i), (j), (k), (l), (m), (n), (o), ~~or (p), or (s)~~, the county economic development income tax rate plus the county adjusted gross income tax rate, if any, that are in effect on January 1 of a year may not exceed one and twenty-five hundredths percent (1.25%). Except as provided in subsection (g), ~~or (p), (r), (t), or (u)~~, the county economic development tax rate plus the county option income tax rate, if any, that are in effect on January 1 of a year may not exceed one percent (1%).

(d) To impose, increase, decrease, or rescind the county economic development income tax, the appropriate body must, after January 1 but before April 1 of a year, adopt an ordinance. The ordinance to impose the tax must substantially state the following:

"The \_\_\_\_\_ County \_\_\_\_\_ imposes the county economic development income tax on the county taxpayers of \_\_\_\_\_ County. The county economic development income tax is imposed at a rate of \_\_\_\_\_ percent (\_\_\_\_%) on the county taxpayers of the county. This tax takes effect July 1 of this year."

(e) Any ordinance adopted under this chapter takes effect July 1 of the year the ordinance is adopted.

(f) The auditor of a county shall record all votes taken on ordinances presented for a vote under the authority of this chapter and shall, not more than ten (10) days after the vote, send a certified copy of the results to the commissioner of the department by certified mail.

(g) This subsection applies to a county having a population of more than one hundred forty-eight thousand (148,000) but less than one hundred seventy thousand (170,000). Except as provided in subsection (p), in addition to the rates permitted by subsection (b), the:

- (1) county economic development income tax may be imposed at a rate of:
  - (A) fifteen-hundredths percent (0.15%);
  - (B) two-tenths percent (0.2%); or
  - (C) twenty-five hundredths percent (0.25%); and
- (2) county economic development income tax rate plus the county option income tax rate that are in effect on January 1 of a year

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may equal up to one and twenty-five hundredths percent (1.25%); if the county income tax council makes a determination to impose rates under this subsection and section 22 of this chapter.

(h) For a county having a population of more than forty-one thousand (41,000) but less than forty-three thousand (43,000), except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and thirty-five hundredths percent (1.35%) if the county has imposed the county adjusted gross income tax at a rate of one and one-tenth percent (1.1%) under IC 6-3.5-1.1-2.5.

(i) For a county having a population of more than thirteen thousand five hundred (13,500) but less than fourteen thousand (14,000), except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and fifty-five hundredths percent (1.55%).

(j) For a county having a population of more than seventy-one thousand (71,000) but less than seventy-one thousand four hundred (71,400), except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%).

(k) This subsection applies to a county having a population of more than twenty-seven thousand four hundred (27,400) but less than twenty-seven thousand five hundred (27,500). Except as provided in subsection (p), in addition to the rates permitted under subsection (b):

(1) the county economic development income tax may be imposed at a rate of twenty-five hundredths percent (0.25%); and

(2) the sum of the county economic development income tax rate and the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%);

if the county council makes a determination to impose rates under this subsection and section 22.5 of this chapter.

(l) For a county having a population of more than twenty-nine thousand (29,000) but less than thirty thousand (30,000), except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%).

(m) For:

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(1) a county having a population of more than one hundred eighty-two thousand seven hundred ninety (182,790) but less than two hundred thousand (200,000); or

(2) a county having a population of more than forty-five thousand (45,000) but less than forty-five thousand nine hundred (45,900); except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%).

(n) For a county having a population of more than six thousand (6,000) but less than eight thousand (8,000), except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%).

(o) This subsection applies to a county having a population of more than thirty-nine thousand (39,000) but less than thirty-nine thousand six hundred (39,600). Except as provided in subsection (p), in addition to the rates permitted under subsection (b):

(1) the county economic development income tax may be imposed at a rate of twenty-five hundredths percent (0.25%); and

(2) the sum of the county economic development income tax rate and:

(A) the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%); or

(B) the county option income tax rate that are in effect on January 1 of a year may not exceed one and twenty-five hundredths percent (1.25%);

if the county council makes a determination to impose rates under this subsection and section 24 of this chapter.

(p) In addition:

(1) the county economic development income tax may be imposed at a rate that exceeds by not more than twenty-five hundredths percent (0.25%) the maximum rate that would otherwise apply under this section; and

(2) the:

(A) county economic development income tax; and

(B) county option income tax or county adjusted gross income tax;

may be imposed at combined rates that exceed by not more than twenty-five hundredths percent (0.25%) the maximum combined rates that would otherwise apply under this section.

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However, the additional rate imposed under this subsection may not exceed the amount necessary to mitigate the increased ad valorem property taxes on homesteads (as defined in IC 6-1.1-20.9-1) resulting from the deduction of the assessed value of inventory in the county under IC 6-1.1-12-41 or IC 6-1.1-12-42.

(q) If the county economic development income tax is imposed as authorized under subsection (p) at a rate that exceeds the maximum rate that would otherwise apply under this section, the certified distribution must be used for the purpose provided in section 25(e) or 26 of this chapter to the extent that the certified distribution results from the difference between:

- (1) the actual county economic development tax rate; and
- (2) the maximum rate that would otherwise apply under this section.

(r) This subsection applies only to a county described in section 27 of this chapter. Except as provided in subsection (p), in addition to the rates permitted by subsection (b), the:

- (1) county economic development income tax may be imposed at a rate of twenty-five hundredths percent (0.25%); and
- (2) county economic development income tax rate plus the county option income tax rate that are in effect on January 1 of a year may equal up to one and twenty-five hundredths percent (1.25%); if the county council makes a determination to impose rates under this subsection and section 27 of this chapter.

(s) Except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%) if the county has imposed the county adjusted gross income tax under IC 6-3.5-1.1-3.3.

**(t) This subsection applies to Miami County. Except as provided in subsection (p), the sum of the county economic development income tax rate and the county option income tax rate that are in effect on January 1 of a year may not exceed one and twenty-five hundredths percent (1.25%).**

**(u) This subsection applies to Howard County. Except as provided in subsection (p), the sum of the county economic development income tax rate and the county option income tax rate that are in effect on January 1 of a year may not exceed one and twenty-five hundredths percent (1.25%).**

SECTION 5. IC 6-3.5-7-13.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 13.1. (a) The fiscal officer of each county, city, or town for a county in which the county

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economic development tax is imposed shall establish an economic development income tax fund. Except as provided in sections 23, 25, 26, and 27 of this chapter, the revenue received by a county, city, or town under this chapter shall be deposited in the unit's economic development income tax fund.

(b) Except as provided in sections 15, 23, 25, 26, and 27 of this chapter, revenues from the county economic development income tax may be used as follows:

(1) By a county, city, or town for economic development projects, for paying, notwithstanding any other law, under a written agreement all or a part of the interest owed by a private developer or user on a loan extended by a financial institution or other lender to the developer or user if the proceeds of the loan are or are to be used to finance an economic development project, for the retirement of bonds under section 14 of this chapter for economic development projects, for leases under section 21 of this chapter, or for leases or bonds entered into or issued prior to the date the economic development income tax was imposed if the purpose of the lease or bonds would have qualified as a purpose under this chapter at the time the lease was entered into or the bonds were issued.

(2) By a county, city, or town for:

(A) the construction or acquisition of, or remedial action with respect to, a capital project for which the unit is empowered to issue general obligation bonds or establish a fund under any statute listed in IC 6-1.1-18.5-9.8;

(B) the retirement of bonds issued under any provision of Indiana law for a capital project;

(C) the payment of lease rentals under any statute for a capital project;

(D) contract payments to a nonprofit corporation whose primary corporate purpose is to assist government in planning and implementing economic development projects;

(E) operating expenses of a governmental entity that plans or implements economic development projects;

(F) to the extent not otherwise allowed under this chapter, funding substance removal or remedial action in a designated unit; or

(G) funding of a revolving fund established under IC 5-1-14-14.

**(3) By a county, city, or town for any lawful purpose for which money in any of its other funds may be used.**

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(c) As used in this section, an economic development project is any project that:

(1) the county, city, or town determines will:

(A) promote significant opportunities for the gainful employment of its citizens;

(B) attract a major new business enterprise to the unit; or

(C) retain or expand a significant business enterprise within the unit; and

(2) involves an expenditure for:

(A) the acquisition of land;

(B) interests in land;

(C) site improvements;

(D) infrastructure improvements;

(E) buildings;

(F) structures;

(G) rehabilitation, renovation, and enlargement of buildings and structures;

(H) machinery;

(I) equipment;

(J) furnishings;

(K) facilities;

(L) administrative expenses associated with such a project, including contract payments authorized under subsection (b)(2)(D);

(M) operating expenses authorized under subsection (b)(2)(E); or

(N) to the extent not otherwise allowed under this chapter, substance removal or remedial action in a designated unit;

or any combination of these.

**(d) If there are bonds outstanding that have been issued under section 14 of this chapter or leases in effect under section 21 of this chapter, a county, city, or town may not expend money from its economic development income tax fund for a purpose authorized under subsection (b)(3) in a manner that would adversely affect owners of the outstanding bonds or payment of any lease rentals due.**

**SECTION 6. [EFFECTIVE UPON PASSAGE] Notwithstanding the provisions in IC 6-3.5-6 that indicate that an ordinance establishing or increasing the rate of a county option income tax in 2005 must be adopted before April 1, 2005, an ordinance adopted in 2005 to establish an additional rate under IC 6-3.5-6-27, as added by this act, may be adopted before June 1, 2005. An**

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1 ordinance under this SECTION must be adopted in the same  
 2 manner as an ordinance under IC 6-3.5-6. An ordinance adopted  
 3 under this SECTION is effective on the later of the following:

4 (1) July 1, 2005.

5 (2) Fifteen (15) regular business days after the department of  
 6 state revenue receives a certified copy of the ordinance from  
 7 the county auditor.

8 SECTION 7. [EFFECTIVE UPON PASSAGE] Notwithstanding  
 9 the provisions in IC 6-3.5-6 that indicate that an ordinance  
 10 establishing or increasing the rate of a county option income tax in  
 11 2005 must be adopted before April 1, 2005, an ordinance adopted  
 12 in 2005 to establish an additional rate under IC 6-3.5-6-28, as  
 13 added by this act, may be adopted before June 1, 2005. An  
 14 ordinance under this SECTION must be adopted in the same  
 15 manner as an ordinance under IC 6-3.5-6. An ordinance adopted  
 16 under this SECTION is effective on the later of the following:

17 (1) July 1, 2005.

18 (2) Fifteen (15) regular business days after the department of  
 19 state revenue receives a certified copy of the ordinance from  
 20 the county auditor.

21 SECTION 8. An emergency is declared for this act.

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COMMITTEE REPORT

Madam President: The Senate Committee on Tax and Fiscal Policy, to which was referred Senate Bill No. 100, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 100 as introduced.)

KENLEY, Chairperson

Committee Vote: Yeas 10, Nays 0.

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SENATE MOTION

Madam President: I move that Senator Weatherwax be added as coauthor of Senate Bill 100.

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SENATE MOTION

Madam President: I move that Senator Mrvan be added as coauthor of Engrossed Senate Bill 100.

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SENATE MOTION

Madam President: I move that Senator Lubbers be added as coauthor of Engrossed Senate Bill 100.

LONG

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred Senate Bill 100, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

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Page 2, between lines 9 and 10, begin a new paragraph and insert:  
 "SECTION 2. IC 6-3.5-6-27 IS ADDED TO THE INDIANA CODE  
 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE  
 UPON PASSAGE]: **Sec. 27. (a) This section applies only to Miami  
 County. Miami County possesses unique economic development  
 challenges due to:**

- (1) underemployment in relation to similarly situated  
 counties; and**
- (2) the presence of a United States government military base  
 or other military installation that is completely or partially  
 inactive or closed.**

**Maintaining low property tax rates is essential to economic  
 development, and the use of county option income tax revenues as  
 provided in this chapter to pay any bonds issued or leases entered  
 into to finance the construction, acquisition, improvement,  
 renovation, and equipping described under subsection (c), rather  
 than use of property taxes, promotes that purpose.**

**(b) In addition to the rates permitted by sections 8 and 9 of this  
 chapter, the county council may impose the county option income  
 tax at a rate of twenty-five hundredths percent (0.25%) on the  
 adjusted gross income of resident county taxpayers if the county  
 council makes the finding and determination set forth in subsection  
 (c). Section 8(e) of this chapter applies to the application of the  
 additional rate to nonresident taxpayers.**

**(c) In order to impose the county option income tax as provided  
 in this section, the county council must adopt an ordinance finding  
 and determining that revenues from the county option income tax  
 are needed to pay the costs of financing, constructing, acquiring,  
 renovating, and equipping a county jail, including the repayment  
 of bonds issued, or leases entered into, for financing, constructing,  
 acquiring, renovating, and equipping a county jail.**

**(d) If the county council makes a determination under  
 subsection (c), the county council may adopt a tax rate under  
 subsection (b). The tax rate may not be imposed at a rate or for a  
 time greater than is necessary to pay the costs of financing,  
 constructing, acquiring, renovating, and equipping a county jail.**

**(e) The county treasurer shall establish a county jail revenue  
 fund to be used only for the purposes described in this section.  
 County option income tax revenues derived from the tax rate  
 imposed under this section shall be deposited in the county jail  
 revenue fund before making a certified distribution under section  
 11 of this chapter.**

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(f) County option income tax revenues derived from the tax rate imposed under this section:

- (1) may only be used for the purposes described in this section;
- (2) may not be considered by the department of local government finance in determining the county's maximum permissible property tax levy limit under IC 6-1.1-18.5; and
- (3) may be pledged to the repayment of bonds issued, or leases entered into, for the purposes described in subsection (c).

SECTION 3. IC 6-3.5-6-28 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 28. (a) This section applies only to Howard County. Maintaining low property tax rates is essential to economic development, and the use of county option income tax revenues as provided in this chapter to pay any bonds issued or leases entered into to finance the construction, acquisition, improvement, renovation, and equipping described under subsection (c), rather than the use of property taxes, promotes that purpose.

(b) In addition to the rates permitted by sections 8 and 9 of this chapter, the county income tax council may impose the county option income tax at a rate of twenty-five hundredths percent (0.25%) on the adjusted gross income of resident county taxpayers if the county income tax council makes the finding and determination set forth in subsection (c). Section 8(e) of this chapter applies to the application of the additional rate to nonresident taxpayers.

(c) In order to impose the county option income tax as provided in this section, the county income tax council must adopt an ordinance finding and determining that revenues from the county option income tax are needed to pay the costs of financing, constructing, acquiring, renovating, and equipping a county jail, including the repayment of bonds issued, or leases entered into, for financing, constructing, acquiring, renovating, and equipping a county jail.

(d) If the county income tax council makes a determination under subsection (c), the county income tax council may adopt a tax rate under subsection (b). The tax rate may not be imposed at a rate or for a time greater than is necessary to pay the costs of financing, constructing, acquiring, renovating, and equipping a county jail.

(e) The county treasurer shall establish a county jail revenue

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**fund to be used only for the purposes described in this section. County option income tax revenues derived from the tax rate imposed under this section shall be deposited in the county jail revenue fund before making a certified distribution under section 11 of this chapter.**

**(f) County option income tax revenues derived from the tax rate imposed under this section:**

- (1) may only be used for the purposes described in this section;**
- (2) may not be considered by the department of local government finance in determining the county's maximum permissible property tax levy limit under IC 6-1.1-18.5; and**
- (3) may be pledged to the repayment of bonds issued, or leases entered into, for the purposes described in subsection (c).**

**SECTION 4. IC 6-3.5-7-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:** Sec. 5. (a) Except as provided in subsection (c), the county economic development income tax may be imposed on the adjusted gross income of county taxpayers. The entity that may impose the tax is:

- (1) the county income tax council (as defined in IC 6-3.5-6-1) if the county option income tax is in effect on January 1 of the year the county economic development income tax is imposed;
- (2) the county council if the county adjusted gross income tax is in effect on January 1 of the year the county economic development tax is imposed; or
- (3) the county income tax council or the county council, whichever acts first, for a county not covered by subdivision (1) or (2).

To impose the county economic development income tax, a county income tax council shall use the procedures set forth in IC 6-3.5-6 concerning the imposition of the county option income tax.

(b) Except as provided in subsections (c), (g), (k), (p), and (r) the county economic development income tax may be imposed at a rate of:

- (1) one-tenth percent (0.1%);
- (2) two-tenths percent (0.2%);
- (3) twenty-five hundredths percent (0.25%);
- (4) three-tenths percent (0.3%);
- (5) thirty-five hundredths percent (0.35%);
- (6) four-tenths percent (0.4%);
- (7) forty-five hundredths percent (0.45%); or
- (8) five-tenths percent (0.5%);

on the adjusted gross income of county taxpayers.

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(c) Except as provided in subsection (h), (i), (j), (k), (l), (m), (n), (o), ~~or~~ (p), ~~or~~ (s), the county economic development income tax rate plus the county adjusted gross income tax rate, if any, that are in effect on January 1 of a year may not exceed one and twenty-five hundredths percent (1.25%). Except as provided in subsection (g), ~~or~~ (p), (r), (t), ~~or~~ (u), the county economic development tax rate plus the county option income tax rate, if any, that are in effect on January 1 of a year may not exceed one percent (1%).

(d) To impose, increase, decrease, or rescind the county economic development income tax, the appropriate body must, after January 1 but before April 1 of a year, adopt an ordinance. The ordinance to impose the tax must substantially state the following:

"The \_\_\_\_\_ County \_\_\_\_\_ imposes the county economic development income tax on the county taxpayers of \_\_\_\_\_ County. The county economic development income tax is imposed at a rate of \_\_\_\_\_ percent (\_\_\_\_%) on the county taxpayers of the county. This tax takes effect July 1 of this year."

(e) Any ordinance adopted under this chapter takes effect July 1 of the year the ordinance is adopted.

(f) The auditor of a county shall record all votes taken on ordinances presented for a vote under the authority of this chapter and shall, not more than ten (10) days after the vote, send a certified copy of the results to the commissioner of the department by certified mail.

(g) This subsection applies to a county having a population of more than one hundred forty-eight thousand (148,000) but less than one hundred seventy thousand (170,000). Except as provided in subsection (p), in addition to the rates permitted by subsection (b), the:

(1) county economic development income tax may be imposed at a rate of:

(A) fifteen-hundredths percent (0.15%);

(B) two-tenths percent (0.2%); or

(C) twenty-five hundredths percent (0.25%); and

(2) county economic development income tax rate plus the county option income tax rate that are in effect on January 1 of a year may equal up to one and twenty-five hundredths percent (1.25%); if the county income tax council makes a determination to impose rates under this subsection and section 22 of this chapter.

(h) For a county having a population of more than forty-one thousand (41,000) but less than forty-three thousand (43,000), except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and thirty-five

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hundredths percent (1.35%) if the county has imposed the county adjusted gross income tax at a rate of one and one-tenth percent (1.1%) under IC 6-3.5-1.1-2.5.

(i) For a county having a population of more than thirteen thousand five hundred (13,500) but less than fourteen thousand (14,000), except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and fifty-five hundredths percent (1.55%).

(j) For a county having a population of more than seventy-one thousand (71,000) but less than seventy-one thousand four hundred (71,400), except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%).

(k) This subsection applies to a county having a population of more than twenty-seven thousand four hundred (27,400) but less than twenty-seven thousand five hundred (27,500). Except as provided in subsection (p), in addition to the rates permitted under subsection (b):

- (1) the county economic development income tax may be imposed at a rate of twenty-five hundredths percent (0.25%); and
- (2) the sum of the county economic development income tax rate and the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%);

if the county council makes a determination to impose rates under this subsection and section 22.5 of this chapter.

(l) For a county having a population of more than twenty-nine thousand (29,000) but less than thirty thousand (30,000), except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%).

(m) For:

- (1) a county having a population of more than one hundred eighty-two thousand seven hundred ninety (182,790) but less than two hundred thousand (200,000); or
  - (2) a county having a population of more than forty-five thousand (45,000) but less than forty-five thousand nine hundred (45,900);
- except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths

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percent (1.5%).

(n) For a county having a population of more than six thousand (6,000) but less than eight thousand (8,000), except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%).

(o) This subsection applies to a county having a population of more than thirty-nine thousand (39,000) but less than thirty-nine thousand six hundred (39,600). Except as provided in subsection (p), in addition to the rates permitted under subsection (b):

(1) the county economic development income tax may be imposed at a rate of twenty-five hundredths percent (0.25%); and

(2) the sum of the county economic development income tax rate and:

(A) the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%); or

(B) the county option income tax rate that are in effect on January 1 of a year may not exceed one and twenty-five hundredths percent (1.25%);

if the county council makes a determination to impose rates under this subsection and section 24 of this chapter.

(p) In addition:

(1) the county economic development income tax may be imposed at a rate that exceeds by not more than twenty-five hundredths percent (0.25%) the maximum rate that would otherwise apply under this section; and

(2) the:

(A) county economic development income tax; and

(B) county option income tax or county adjusted gross income tax;

may be imposed at combined rates that exceed by not more than twenty-five hundredths percent (0.25%) the maximum combined rates that would otherwise apply under this section.

However, the additional rate imposed under this subsection may not exceed the amount necessary to mitigate the increased ad valorem property taxes on homesteads (as defined in IC 6-1.1-20.9-1) resulting from the deduction of the assessed value of inventory in the county under IC 6-1.1-12-41 or IC 6-1.1-12-42.

(q) If the county economic development income tax is imposed as authorized under subsection (p) at a rate that exceeds the maximum rate that would otherwise apply under this section, the certified

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distribution must be used for the purpose provided in section 25(e) or 26 of this chapter to the extent that the certified distribution results from the difference between:

- (1) the actual county economic development tax rate; and
- (2) the maximum rate that would otherwise apply under this section.

(r) This subsection applies only to a county described in section 27 of this chapter. Except as provided in subsection (p), in addition to the rates permitted by subsection (b), the:

- (1) county economic development income tax may be imposed at a rate of twenty-five hundredths percent (0.25%); and
- (2) county economic development income tax rate plus the county option income tax rate that are in effect on January 1 of a year may equal up to one and twenty-five hundredths percent (1.25%); if the county council makes a determination to impose rates under this subsection and section 27 of this chapter.

(s) Except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%) if the county has imposed the county adjusted gross income tax under IC 6-3.5-1.1-3.3.

**(t) This subsection applies to Miami County. Except as provided in subsection (p), the sum of the county economic development income tax rate and the county option income tax rate that are in effect on January 1 of a year may not exceed one and twenty-five hundredths percent (1.25%).**

**(u) This subsection applies to Howard County. Except as provided in subsection (p), the sum of the county economic development income tax rate and the county option income tax rate that are in effect on January 1 of a year may not exceed one and twenty-five hundredths percent (1.25%)."**

Page 4, after line 6, begin a new paragraph and insert:

**"SECTION 5. [EFFECTIVE UPON PASSAGE] Notwithstanding the provisions in IC 6-3.5-6 that indicate that an ordinance establishing or increasing the rate of a county option income tax in 2005 must be adopted before April 1, 2005, an ordinance adopted in 2005 to establish an additional rate under IC 6-3.5-6-27, as added by this act, may be adopted before June 1, 2005. An ordinance under this SECTION must be adopted in the same manner as an ordinance under IC 6-3.5-6. An ordinance adopted under this SECTION is effective on the later of the following:**

- (1) July 1, 2005.**

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**(2) Fifteen (15) regular business days after the department of state revenue receives a certified copy of the ordinance from the county auditor.**

**SECTION 6. [EFFECTIVE UPON PASSAGE] Notwithstanding the provisions in IC 6-3.5-6 that indicate that an ordinance establishing or increasing the rate of a county option income tax in 2005 must be adopted before April 1, 2005, an ordinance adopted in 2005 to establish an additional rate under IC 6-3.5-6-28, as added by this act, may be adopted before June 1, 2005. An ordinance under this SECTION must be adopted in the same manner as an ordinance under IC 6-3.5-6. An ordinance adopted under this SECTION is effective on the later of the following:**

**(1) July 1, 2005.**

**(2) Fifteen (15) regular business days after the department of state revenue receives a certified copy of the ordinance from the county auditor.**

**SECTION 7. An emergency is declared for this act."**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 100 as printed January 19, 2005.)

ESPICH, Chair

Committee Vote: yeas 16, nays 0.

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